

## CHAPTER 113

### MOTOR FUELS — REGULATION, DISPENSING, AND TAX CREDITS AND REFUNDS

S.F. 531

**AN ACT** relating to motor fuels, including biofuels and renewable fuels dispensed by retail dealers, and by providing for tax credits and refunds, providing an appropriation, and including effective date and retroactive and other applicability provisions.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I

##### RETAIL DEALERS — MOTOR FUEL STANDARDS

Section 1. Section 214A.2, subsection 4, paragraph b, Code 2011, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (4) Biodiesel blended fuel classified as B-6 or higher but not higher than B-20 must conform to A.S.T.M. international specification D7467 or a successor A.S.T.M. international specification as established by rules adopted by the department.

#### DIVISION II

##### RETAIL DEALERS — LIABILITY

Sec. 2. NEW SECTION. **214A.20 Retail dealers — limitation on liability.**

1. A retail dealer is not liable for damages caused by the use of incompatible motor fuel dispensed at the retail dealer's retail motor fuel site, if all of the following applies:

a. The incompatible motor fuel complies with the specifications for a type of motor fuel as provided in section 214A.2.

b. The incompatible motor fuel is selected by a person other than the retail dealer, including an employee or agent of the retail dealer.

c. The incompatible motor fuel is dispensed from a motor fuel pump that correctly labels the type of fuel dispensed.

2. For purposes of this section, a motor fuel is incompatible with a motor according to the manufacturer of the motor.

#### DIVISION III

##### RETAIL DEALERS — ETHANOL PROMOTION TAX CREDIT

Sec. 3. Section 422.11N, subsection 1, paragraph a, Code 2011, is amended to read as follows:

a. "E-85 gasoline", "ethanol", "ethanol blended gasoline", "gasoline", ~~and "retail dealer"~~, and "retail motor fuel site" mean the same as defined in section 214A.1.

Sec. 4. Section 422.11N, subsection 3, paragraph a, Code 2011, is amended to read as follows:

a. The taxpayer is a retail dealer who sells and dispenses ethanol blended gasoline through a motor fuel pump ~~in~~ located at the retail dealer's retail motor fuel site during the tax year in determination period or parts of the determination periods for which the tax credit is claimed as provided in this section.

Sec. 5. Section 422.11N, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 3A. a. When first claiming the tax credit, the retail dealer shall elect to compute and claim the tax credit on a company-wide basis or site-by-site basis in the same manner as provided in section 452A.33.

(1) In making a company-wide election, the retail dealer must compute and claim the tax credit based on calculations as provided in this section for all retail motor fuel sites where the retail dealer sells and dispenses motor fuel on a retail basis. The retail dealer shall not claim the tax credit based on a calculation which does not include all such retail motor fuel sites.

A retail dealer shall use the company-wide election in order to calculate the retail dealer's biofuel threshold percentage as provided in subsection 4, paragraph "b".

(2) In making a site-by-site election, the retail dealer must compute and claim the tax credit based on calculations as provided in this section for each retail motor fuel site where the retail dealer sells and dispenses motor fuel on a retail basis. The retail dealer shall not claim the tax credit based on a calculation which includes two or more retail motor fuel sites. Nothing in this subparagraph requires the retail dealer to compute or claim a tax credit for a particular retail motor fuel site. The retail dealer shall not use the site-by-site election in order to calculate the retail dealer's biofuel threshold percentage as provided in subsection 4, paragraph "b".

b. Once the retail dealer makes an election as provided in paragraph "a", the retail dealer shall not change the election without the written consent of the department.

Sec. 6. Section 422.11N, subsection 4, paragraph d, Code 2011, is amended by striking the paragraph.

Sec. 7. Section 422.11N, subsection 5, paragraph a, subparagraph (1), Code 2011, is amended to read as follows:

(1) For any tax year in which the retail dealer has attained a biofuel threshold percentage for the determination period, the tax credit rate is ~~six and one-half~~ eight cents.

Sec. 8. Section 422.11N, subsection 5, paragraph a, subparagraph (2), subparagraph divisions (a) and (b), Code 2011, are amended to read as follows:

(a) If the retail dealer's biofuel threshold percentage disparity equals two percent or less, the tax credit rate is ~~four and one-half~~ six cents.

(b) If the retail dealer's biofuel threshold percentage disparity equals more than two percent but not more than four percent, the tax credit rate is as follows:

(i) For calendar year 2011, two and one-half cents.

(ii) For calendar year 2012 and for each subsequent calendar year, four cents.

Sec. 9. Section 422.11N, subsection 6, Code 2011, is amended to read as follows:

6. a. A retail dealer is eligible to claim an ethanol promotion tax credit as provided in this section even though the retail dealer claims ~~an~~ one or all of the following related tax credits:

(1) The E-85 gasoline promotion tax credit pursuant to section 422.11O.

(2) The E-15 plus gasoline promotion tax credit pursuant to section 422.11Y.

b. The retail dealer may claim the ethanol promotion tax credit and one or more of the related tax credits as provided in paragraph "a" for the same tax year and for the same ethanol gallonage.

Sec. 10. Section 452A.33, subsection 1, paragraph b, Code 2011, is amended by striking the paragraph and inserting in lieu thereof the following:

b. The report shall include information required in paragraph "a" on a company-wide and site-by-site basis, as required by the department.

(1) The information submitted on a company-wide basis shall include the total motor fuel gallonage, including for each classification and subclassification, sold and dispensed by the retail dealer as provided in paragraph "a" for all retail motor fuel sites from which the retail dealer sells and dispenses motor fuel.

(2) The information submitted on a site-by-site basis shall include the total motor fuel gallonage, including for each classification and subclassification, sold and dispensed by the retail dealer as provided in paragraph "a" separately for each retail motor fuel site from which the retail dealer sells and dispenses motor fuel.

Sec. 11. 2006 Iowa Acts, chapter 1142, section 49, subsection 2, as amended by 2006 Iowa Acts, chapter 1175, section 17, is amended to read as follows:

2. For a retail dealer who may claim an ethanol promotion tax credit under section 422.11N or 422.33, subsection 11A, as enacted in this Act and amended in subsequent Acts, in calendar year 2020 and whose tax year ends prior to December 31, 2020, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall

be calculated in the same manner as provided in section 422.11N or 422.33, subsection 11A, as enacted in this Act and amended in subsequent Acts, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, 2020. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, 2020.

Sec. 12. ADMINISTRATIVE RULES. The department of revenue may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act, and the rules shall be effective immediately upon filing unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 13. EFFECTIVE DATE. This division of this Act, and the application of section 422.33, subsection 11A, due to this division of this Act, take effect upon enactment.

Sec. 14. RETROACTIVE APPLICABILITY. This division of this Act applies retroactively to January 1, 2011, including section 422.11N, as amended in this division of this Act, and the application of section 422.33, subsection 11A, due to this division of this Act, to tax years beginning on and after January 1, 2011.

#### DIVISION IV E-85 GASOLINE PROMOTION TAX CREDIT

Sec. 15. Section 422.11O, subsection 2, Code 2011, is amended to read as follows:

2. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by an E-85 gasoline promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

a. In order to be eligible, all of the following must apply:

~~a.~~ (1) The taxpayer is a retail dealer who sells and dispenses E-85 gasoline through a motor fuel pump in located at the retail dealer's retail motor fuel site during the tax calendar year in or parts of the calendar year for which the tax credit is claimed as provided in this section.

~~b.~~ (2) The retail dealer complies with requirements of the department to administer this section.

b. The tax credit shall apply to E-85 gasoline that meets the standards provided in section 214A.2.

Sec. 16. Section 422.11O, subsection 3, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

3. For a retail dealer whose tax year is on a calendar year basis, the retail dealer shall calculate the amount of the tax credit by multiplying a designated rate of sixteen cents by the retail dealer's total E-85 gasoline gallonage as provided in sections 452A.31 and 452A.32.

Sec. 17. Section 422.11O, subsection 5, Code 2011, is amended to read as follows:

5. a. A retail dealer is eligible to claim an E-85 gasoline promotion tax credit as provided in this section even though the retail dealer claims ~~an~~ one or all of the following related tax credits:

(1) The ethanol promotion tax credit pursuant to section 422.11N for the same tax year for the same ethanol gallonage.

(2) The E-15 plus gasoline<sup>1</sup> tax credit pursuant to section 422.11Y.

b. (1) The retail dealer may claim the E-85 gasoline promotion tax credit and one or more of the related tax credits as provided in paragraph "a" for the same tax year.

(2) The retail dealer may claim the ethanol promotion tax credit as provided in paragraph "a" for the same ethanol gallonage used to calculate and claim the E-85 gasoline promotion tax credit.

<sup>1</sup> See chapter 131, §62, 78, 79 herein

Sec. 18. Section 422.11O, subsection 8, Code 2011, is amended to read as follows:  
8. This section is repealed on January 1, ~~2021~~ 2018.

Sec. 19. Section 422.33, subsection 11B, paragraph c, Code 2011, is amended to read as follows:

c. This subsection is repealed on January 1, ~~2021~~ 2018.

Sec. 20. 2006 Iowa Acts, chapter 1142, section 49, subsection 3, is amended to read as follows:

3. For a retail dealer who may claim an E-85 gasoline promotion tax credit under section 422.11O or 422.33, subsection 11B, as enacted in this Act and amended in subsequent Acts, in calendar year ~~2020~~ 2017 and whose tax year ends prior to December 31, ~~2020~~ 2017, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11O or 422.33, subsection 11B, as enacted in this Act and amended in subsequent Acts, for the remaining period beginning on the first day of the retail dealer's new tax year until December 31, ~~2020~~ 2017. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, ~~2020~~ 2017.

Sec. 21. ADMINISTRATIVE RULES. The department of revenue may adopt rules under chapter 17A prior to the effectiveness and applicability of section 422.11O, and section 422.33, subsection 11B, as amended in this division of this Act, due to this division of this Act. The department's rules shall not take effect earlier than January 1, 2012.

Sec. 22. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act takes effect on July 1, 2011.

2. a. The section of this division of this Act authorizing the department of revenue to adopt rules takes effect upon enactment.

b. Section 422.11O, as amended in this division of this Act, and section 422.33, subsection 11B, as amended in this division of this Act, take effect on January 1, 2012.

Sec. 23. APPLICABILITY. Section 422.11O, as amended in this division of this Act, and section 422.33, subsection 11B, as amended in this division of this Act and applied due to this division of this Act, apply to tax years beginning on and after January 1, 2012.

#### DIVISION V RETAIL DEALERS — BIODIESEL BLENDED FUEL TAX CREDIT

Sec. 24. Section 422.11P, Code 2011, is amended by adding the following new subsection:  
NEW SUBSECTION. 1A. For purposes of this section, biodiesel blended fuel is classified in the same manner as provided in section 214A.2.

Sec. 25. Section 422.11P, subsection 2, Code 2011, is amended to read as follows:

2. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by ~~the amount of the~~ a biodiesel blended fuel tax credit for each tax year that the taxpayer is eligible to claim a tax credit under this subsection.

a. In order to be eligible, all of the following must apply:

(1) The taxpayer is a retail dealer who sells and dispenses qualifying biodiesel blended fuel through a motor fuel pump located at a the retail dealer's retail motor fuel site ~~operated by the retail dealer in~~ during the tax calendar year in or parts of the calendar years for which the tax credit is claimed as provided in this section.

~~(2) Of the total gallons of diesel fuel that the retail dealer sells and dispenses through all motor fuel pumps located at a motor fuel site operated by the retail dealer during the retail dealer's tax year, fifty percent or more is biodiesel blended fuel which meets the requirements of this section.~~

~~(3)~~ (2) The retail dealer complies with requirements of the department established to administer this section.

b. The tax credit shall apply to biodiesel blended fuel ~~formulated with a minimum percentage of two percent by volume of biodiesel, if the formulation classified as provided in this section, if the classification~~ meets the standards provided in section 214A.2.<sup>2</sup>

Sec. 26. Section 422.11P, subsection 3, Code 2011, is amended by striking the subsection and inserting in lieu thereof the following:

3. For a retail dealer whose tax year is on a calendar year basis, the retail dealer shall calculate the amount of the tax credit by multiplying a designated rate by the retail dealer's total biodiesel blended fuel gallonage as provided in section 452A.31 which qualifies under this subsection.

a. In calendar year 2012, in order to qualify for the tax credit, the biodiesel blended fuel must be classified as B-2 or higher.

(1) For biodiesel blended fuel classified as B-2 or higher but not as high as B-5, the designated rate is two cents.

(2) For biodiesel blended fuel classified as B-5 or higher, the designated rate is four and one-half cents.

b. In calendar year 2013 and for each subsequent calendar year, in order to qualify for the tax credit, the biodiesel blended fuel must be classified as B-5 or higher. The designated rate for the qualifying biodiesel blended fuel is four and one-half cents.

Sec. 27. Section 422.11P, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 3A. For a retail dealer whose tax year is not on a calendar year basis, the retail dealer shall calculate the tax credit as follows:

a. If a retail dealer has not claimed a tax credit in the retail dealer's previous tax year, the retail dealer may claim the tax credit in the retail dealer's current tax year for that period beginning on January 1 of the retail dealer's previous tax year to the last day of the retail dealer's previous tax year. For that period the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on December 31 of that calendar year as provided in subsection 3.

b. (1) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in subsection 3.

(2) For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in subsection 3.

Sec. 28. Section 422.11P, subsection 6, Code 2011, is amended to read as follows:

6. This section is repealed January 1, ~~2012~~ 2018.

Sec. 29. Section 422.33, subsection 11C, paragraphs c and d, Code 2011, are amended to read as follows:

~~e. The tax credit shall be calculated separately for each retail motor fuel site operated by the taxpayer in the same manner as provided in section 422.11P.~~

~~d. c.~~ This subsection is repealed on January 1, ~~2012~~ 2018.

Sec. 30. TAX CREDIT AVAILABILITY — CLAIMS FOR THE 2011 CALENDAR YEAR. Nothing in this Act affects a retail dealer's claiming of a biodiesel blended fuel tax credit as provided in 2006 Iowa Acts, chapter 1142, section 49, subsection 5.

Sec. 31. TAX CREDIT AVAILABILITY. For a retail dealer who may claim a biodiesel blended fuel promotion tax credit under section 422.11P or 422.33, subsection 11C, as amended in this Act and amended in subsequent Acts, in calendar year 2017, and whose tax year ends prior to December 31, 2017, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11P or 422.33, subsection 11C, as amended in this Act and amended in subsequent Acts, for the remaining period beginning on the first day of

<sup>2</sup> See chapter 131, §94, 104 herein

the retail dealer's new tax year until December 31, 2017. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, 2017.

Sec. 32. ADMINISTRATIVE RULES. The department of revenue may adopt rules under chapter 17A prior to the effectiveness and applicability of section 422.11P, and section 422.33, subsection 11C, as amended in this division of this Act, due to this division of this Act. The department's rules shall not take effect earlier than January 1, 2012.

Sec. 33. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act takes effect July 1, 2011.

2. a. The section of this division of this Act authorizing the department of revenue to adopt administrative rules takes effect upon enactment.

b. The section of this division of this Act which provides for tax credit availability for the 2011 calendar year under 2006 Iowa Acts, chapter 1142, section 49, subsection 5, being deemed of immediate importance, takes effect upon enactment.

c. Section 422.11P, as amended in this division of this Act, and section 422.33, subsection 11C, as amended in this division of this Act, take effect on January 1, 2012.

Sec. 34. APPLICABILITY. Section 422.11P, as amended in this division of this Act, and section 422.33, subsection 11C, as amended in this division of this Act and applied due to this division of this Act, apply to tax years beginning on and after January 1, 2012.

#### DIVISION VI RETAIL DEALERS — E-15 PLUS GASOLINE TAX CREDIT

Sec. 35. NEW SECTION. 422.11Y E-15 plus gasoline promotion tax credit.

1. As used in this section, unless the context otherwise requires:

a. "E-85 gasoline", "ethanol", "gasoline", "retail dealer", and "retail motor fuel site" mean the same as defined in section 214A.1.

b. "Motor fuel pump" means the same as defined in section 214.1.

c. "Sell" means to sell on a retail basis.

d. "Tax credit" means the E-15 plus gasoline<sup>3</sup> tax credit as provided in this section.

2. For purposes of this section, ethanol blended gasoline is classified in the same manner as provided in section 214A.2.

3. The taxes imposed under this division, less the credits allowed under section 422.12, shall be reduced by the amount of the E-15 plus gasoline<sup>4</sup> tax credit for each tax year that the taxpayer is eligible to claim a tax credit under this subsection.

a. In order to be eligible, all of the following must apply:

(1) The taxpayer is a retail dealer who sells and dispenses qualifying ethanol blended gasoline through a motor fuel pump located at the retail dealer's retail motor fuel site during the calendar year or parts of the calendar years for which the tax credit is claimed as provided in this section.

(2) The retail dealer complies with requirements of the department established to administer this section.

b. The tax credit shall apply to ethanol blended gasoline classified as provided in this section, if the classification meets the standards provided in section 214A.2.

4. For a retail dealer whose tax year is on a calendar year basis, the retail dealer shall calculate the amount of the tax credit by multiplying a designated rate by the retail dealer's total ethanol blended gasoline gallonage as provided in section 452A.31 which qualifies under this subsection.

a. In order to qualify for the tax credit, the ethanol blended gasoline must be classified as E-15 or higher but not classified as E-85.

b. The designated rate of the tax credit is as follows:

(1) For calendar year 2012, calendar year 2013, and calendar year 2014, three cents.

<sup>3</sup> See chapter 131, §63, 79, 158 herein

<sup>4</sup> See chapter 131, §64, 79, 158 herein

(2) For calendar year 2015, calendar year 2016, and calendar year 2017, two cents.

5. For a retail dealer whose tax year is not on a calendar year basis, the retail dealer shall calculate the tax credit as follows:

a. If a retail dealer has not claimed a tax credit in the retail dealer's previous tax year, the retail dealer may claim the tax credit in the retail dealer's current tax year for that period beginning on January 1 of the retail dealer's previous tax year to the last day of the retail dealer's previous tax year. For that period the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on December 31 of that calendar year as provided in subsection 4.

b. (1) For the period beginning on the first day of the retail dealer's tax year until December 31, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who calculates the tax credit on that same December 31 as provided in subsection 4.

(2) For the period beginning on January 1 to the end of the retail dealer's tax year, the retail dealer shall calculate the tax credit in the same manner as a retail dealer who will calculate the tax credit on the following December 31 as provided in subsection 4.

6. a. A retail dealer is eligible to claim an E-15 plus gasoline promotion tax credit as provided in this section even though the retail dealer claims one or all of the following related tax credits:

(1) The ethanol promotion tax credit pursuant to section 422.11N.

(2) The E-85 gasoline promotion tax credit pursuant to section 422.11O.

b. (1) The retail dealer may claim the E-15 plus gasoline promotion tax credit and one or more of the related tax credits as provided in paragraph "a" for the same tax year.

(2) The retail dealer may claim the ethanol promotion tax credit as provided in paragraph "a" for the same ethanol gallonage used to calculate and claim the E-15 plus gasoline<sup>5</sup> tax credit.

7. Any credit in excess of the retail dealer's tax liability shall be refunded. In lieu of claiming a refund, the retail dealer may elect to have the overpayment shown on the retail dealer's final, completed return credited to the tax liability for the following tax year.

8. An individual may claim the tax credit allowed a partnership, limited liability company, S corporation, estate, or trust electing to have the income taxed directly to the individual. The amount claimed by the individual shall be based upon the pro rata share of the individual's earnings of a partnership, limited liability company, S corporation, estate, or trust.

9. This section is repealed on January 1, 2018.

Sec. 36. Section 422.33, Code 2011, is amended by adding the following new subsection:  
**NEW SUBSECTION.** 11D. The taxes imposed under this division shall be reduced by an E-15 plus gasoline promotion tax credit for each tax year that the taxpayer is eligible to claim the tax credit under this subsection.

a. The taxpayer shall claim the tax credit in the same manner as provided in section 422.11Y. The taxpayer may claim the tax credit according to the same requirements, for the same amount, and calculated in the same manner, as provided for the E-15 plus gasoline promotion tax credit pursuant to section 422.11Y.

b. Any E-15 plus gasoline promotion tax credit which is in excess of the taxpayer's tax liability shall be refunded or may be shown on the taxpayer's final, completed return credited to the tax liability for the following tax year in the same manner as provided in section 422.11Y.

c. This subsection is repealed on January 1, 2018.

Sec. 37. **TAX CREDIT AVAILABILITY.** For a retail dealer who may claim an E-15 plus gasoline promotion tax credit under section 422.11Y or 422.33, subsection 11D, as enacted in this Act and amended in subsequent Acts, in calendar year 2017, and whose tax year ends prior to December 31, 2017, the retail dealer may continue to claim the tax credit in the retail dealer's following tax year. In that case, the tax credit shall be calculated in the same manner as provided in section 422.11Y or 422.33, subsection 11D, as enacted in this Act and amended in subsequent Acts, for the remaining period beginning on the first day of the retail

<sup>5</sup> See chapter 131, §65, 79, 158 herein

dealer's new tax year until December 31, 2017. For that remaining period, the tax credit shall be calculated in the same manner as a retail dealer whose tax year began on the previous January 1 and who is calculating the tax credit on December 31, 2017.

Sec. 38. ADMINISTRATIVE RULES. The department of revenue may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph "b", to implement the provisions of this division of this Act. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4. The department's rules shall not take effect earlier than July 1, 2011.

Sec. 39. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act takes effect on July 1, 2011.
2. The section of this division of this Act authorizing the department of revenue to adopt rules takes effect upon enactment.

Sec. 40. APPLICABILITY.

1. Except as provided in subsection 2, section 422.11Y, as enacted in this division of this Act, and section 422.33, subsection 11D, as enacted in this division of this Act and applied due to this division of this Act, apply to tax years beginning on and after January 1, 2012.
2. Section 422.11Y, as enacted in this division of this Act, and section 422.33, subsection 11D, as enacted in this division of this Act and applied due to this division of this Act, apply to that part of a retail dealer's tax year or tax years occurring during that portion of the calendar year beginning on and after July 1, 2011, and ending on December 31, 2011. In that case, the retail dealer shall calculate the E-15 plus gasoline promotion tax in the same manner as a retail dealer calculating the tax credit on January 1, 2012.

DIVISION VII  
RENEWABLE FUEL INFRASTRUCTURE — APPROPRIATION — TRANSFER  
OF AUTHORITY FROM DEPARTMENT OF ECONOMIC DEVELOPMENT  
TO DEPARTMENT OF AGRICULTURE AND LAND STEWARDSHIP

Sec. 41. Section 15.104, subsection 8, paragraph j, Code 2011, is amended by striking the paragraph.

Sec. 42. Section 15G.201, subsection 2, Code 2011, is amended to read as follows:

2. "*Department*" means the ~~Iowa department of economic development created in section 15.105~~ department of agriculture and land stewardship.

Sec. 43. Section 15G.202, subsection 2, paragraph c, subparagraph (4), Code 2011, is amended to read as follows:

- (4) The Iowa ~~motor truck association~~ biodiesel board.

Sec. 44. Section 15G.205, subsection 4, paragraph c, Code 2011, is amended to read as follows:

c. Notwithstanding section 8.33, unencumbered and unobligated moneys remaining in the infrastructure fund at the close of each fiscal year shall not revert but shall remain available in the infrastructure fund ~~for expenditure for the same purposes until the end of the fiscal year that begins July 1, 2011, at which time the unencumbered and unobligated moneys remaining shall revert to the funds from which appropriated.~~

Sec. 45. Section 159.20, subsection 1, paragraph j, Code 2011, is amended to read as follows:

- j. Provide for the promotion and expansion of renewable fuels and coproducts, by doing all of the following:
  - ~~j.~~ (1) Assist the office of renewable fuels and coproducts in administering the provisions of chapter 159A, subchapter I.

(2) Assist the renewable fuel infrastructure board, provide for the administration of the renewable fuel infrastructure programs, and provide for the management of the renewable fuel infrastructure fund, as provided in chapter 159A, subchapter II.

Sec. 46. Section 159A.2, unnumbered paragraph 1, Code 2011, is amended to read as follows:

As used in this ~~chapter~~ subchapter, unless the context otherwise requires:

Sec. 47. Section 321.145, subsection 2, paragraph a, Code 2011, is amended to read as follows:

a. ~~Four~~ Moneys shall be deposited into and credited to the following funds:

(1) First, three million ~~two~~ five hundred ~~thirty~~ fifty thousand dollars per quarter shall be deposited into and credited to the Iowa comprehensive petroleum underground storage tank fund created in section 455G.3, and the moneys so deposited are a continuing appropriation for expenditure under chapter 455G, and moneys so appropriated shall not be used for other purposes.

(2) Second, seven hundred fifty thousand dollars per quarter shall be deposited into and credited to the renewable fuel infrastructure fund created in section 15G.205, and the moneys so deposited are a continuing appropriation for expenditure under chapter 15G, subchapter II, and moneys so appropriated shall not be used for other purposes.

Sec. 48. TRANSITIONAL PROVISIONS — ADMINISTRATIVE RULES. The rules adopted by the department of economic development as codified in 261 IAC, chapters 311 through 314, shall continue in full force and effect until amended, repealed, or supplemented by affirmative action of the department of agriculture and land stewardship.

Sec. 49. TRANSITIONAL PROVISIONS — EMERGENCY ADMINISTRATIVE RULEMAKING. The department of agriculture and land stewardship may adopt emergency rules under section 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph “b”, to implement the provisions of this division of this Act, and the rules shall be effective July 1, 2011, unless a later date is specified in the rules. Any rules adopted in accordance with this section shall also be published as a notice of intended action as provided in section 17A.4.

Sec. 50. TRANSITIONAL PROVISIONS — ADMINISTRATIVE HEARINGS OR COURT PROCEEDINGS. An administrative hearing or court proceeding arising out of an enforcement action under chapter 15G pending on July 1, 2011, shall not be affected due to this division of this Act. Any cause of action or statute of limitations relating to an action taken by the department of economic development shall not be affected as a result of this division of this Act and such cause or statute of limitation shall apply to the department of agriculture and land stewardship.

Sec. 51. TRANSITIONAL PROVISIONS — REPLACEMENT ITEMS. A replacement item, including but not limited to logos, stationery, or insignia, that is made due to the effect of this division of this Act shall be done as part of the normal replacement cycle for such item.

Sec. 52. TRANSITIONAL PROVISIONS — TRANSFER OF RECORDS.

1. The department of economic development shall provide the department of agriculture and land stewardship with records necessary to administer and enforce chapter 15G, subchapter II, including sections of the subchapter amended by this Act, and rules adopted by the department of economic development pursuant to that subchapter.

2. The transfer described in subsection 1, shall be accomplished by June 15, 2011, unless the department of economic development and the department of agriculture and land stewardship agree to a different date in 2011.

Sec. 53. TRANSITIONAL PROVISIONS — OUTSTANDING CONTRACTS.

1. The department of economic development shall assign and the department of agriculture and land stewardship shall assume all outstanding cost-share agreements executed by the

department of economic development pursuant to the renewable fuel infrastructure program for retail motor fuel sites as provided in section 15G.203 and the renewable fuel infrastructure program for biodiesel terminal facilities as provided in section 15G.204.

2. The assignment and assumption of the cost-share agreements described in subsection 1 shall be effective on July 1, 2011, unless the department of economic development and the department of agriculture and land stewardship agree to a different date in 2011.

Sec. 54. TRANSITIONAL PROVISIONS — RENEWABLE FUEL INFRASTRUCTURE BOARD. The department of economic development and the department of agriculture and land stewardship shall jointly consult with the renewable fuel infrastructure board as created in section 15G.202, as amended by this Act, when effectuating the transitional provisions of this division of this Act.

Sec. 55. TRANSFER OF SECTIONS. Chapter 15G, subchapter II, is transferred to chapter 159A, new subchapter III. Chapter 159A, subchapter I, shall include section 159A.1, Code 2011. Chapter 159A, subchapter II, shall include all of the following: section 159A.2, Code 2011, as amended by this Act; and sections 159A.3 through 159A.8, Code 2011. Chapter 159A, subchapter III, shall include all of the following: sections 15G.201, 15G.201A, and 15G.202, Code 2011, as amended by this Act; sections 15G.203 and 15G.204, Code 2011; section 15G.205, Code 2011, as amended by this Act; and section 15G.206, Code 2011. The Code editor shall correct internal references as necessary, including references in section 321.145, subsection 2, paragraph “a”, as amended in this division of this Act.

Sec. 56. EFFECTIVE DATES.

1. Except as provided in subsection 2, this division of this Act takes effect on July 1, 2011.

2. a. The section of this division of this Act amending section 15G.202, subsection 2, paragraph c, subparagraph (4), takes effect upon enactment.

b. The section of this division of this Act amending section 15G.205, subsection 4, paragraph c, takes effect upon enactment.

c. The sections of this division of this Act which include transitional provisions to accomplish the transfer of powers and duties of the department of economic development to the department of agriculture and land stewardship, being deemed of immediate importance, take effect upon enactment. As used in this paragraph, such transitional provisions are limited to those uncodified sections of this division of this Act which provide for the transfer of powers and duties by the department of economic development associated with chapter 15G, subchapter II, including those sections in subchapter II as amended or transferred to chapter 159A by this Act.

#### DIVISION VIII BIODIESEL PRODUCTION REFUND

Sec. 57. Section 422.7, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 54. Subtract, to the extent included, the amount of any biodiesel production refund provided pursuant to section 423.4.

Sec. 58. Section 422.35, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 25. Subtract, to the extent included, the amount of any biodiesel production refund provided pursuant section 423.4.

Sec. 59. Section 423.4, Code 2011, is amended by adding the following new subsection: NEW SUBSECTION. 9. A person who qualifies as a biodiesel producer as provided in this subsection may apply to the director for a refund of the amount of the sales<sup>6</sup> tax imposed and paid upon purchases made by the person.

a. The person must be engaged in the manufacturing of biodiesel who has registered with the United States environmental protection agency as a manufacturer according to the requirements in 40 C.F.R. §79.4. The biodiesel must be for use in biodiesel blended fuel in

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<sup>6</sup> See chapter 131, §66, 78 herein

conformance with section 214A.2. The person must comply with the requirements of this subsection and rules adopted by the department pursuant to this subsection.

*b.* The amount of the refund shall be calculated by multiplying a designated rate by the total number of gallons of biodiesel produced by the biodiesel producer in this state during each quarter of a calendar year. The designated rate shall be as follows:

- (1) For the calendar year 2012, three cents.
- (2) For the calendar year 2013, two and one-half cents.
- (3) For the calendar year 2014, two cents.

*c.* A biodiesel producer shall not be eligible to receive a refund under this subsection on more than twenty-five million gallons of biodiesel produced each calendar year by the biodiesel producer at each facility where the biodiesel producer manufactures biodiesel.

*d.* A person shall obtain a refund by completing forms furnished by the department and filed by the person on a quarterly basis as required by the department. The department shall refund the amount claimed by the person after subtracting any amount owing from the sales or use taxes imposed and paid upon purchases made by the person.

*e.* This subsection is repealed on January 1, 2015.

Sec. 60. EFFECTIVE DATE. This division of this Act takes effect January 1, 2012.

Approved May 26, 2011